

ELEMENTS FOR AN EFFECTIVE STAFF REPORT

Staff reports should be prepared for each variance which is to be in effect for 30 days or longer. These reports should be provided to hearing board members before the hearing. Staff reports must contain substantial details so that the hearing board can make a reasonable decision. These details include the following:

- Source background
- Process description
- Ambient air quality near the source
- Details of the problems which are causing the violation
- Demonstration that the problems are beyond the reasonable control of the source. (Please note that the burden of proof falls upon the petitioner to provide this information on the variance petition. Staff would then incorporate this information in the staff report.)
- Rule being violated
- Actual variance petition (submitted by source)
- Excess emissions calculated by the district for the variance period
- Effects on ambient air quality near the source
- Demonstration that granting the variance will not affect the SIP nor the maintenance of ambient air quality standards
- Possible adverse health effects
- History of previous variances
- Complaint history regarding the source
- Cost benefit analysis (for cases involving a dispute on available control technology when the source maintains that BACT is cost prohibitive)
- Staff recommended restrictions and requirements
- Increments of progress
- Final compliance date
- District conclusions and recommendations

The following pages are district examples of staff reports. It was not determined if these examples met all of the above ARB criteria. They are provided for use in developing format, etc.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT
NORTHERN REGION
1999 Tuolumne Street
Fresno, Ca 93721

STAFF REPORT

REGULAR VARIANCE

DOCKET NO. [REDACTED]

FACILITY: [REDACTED]

LOCATION: 80350 Tracy Blvd.
Tracy, CA 95376

RULE VIOLATION: 2070.7.0 (Operation according to Permit to Operate Condition)

DISTRICT PERMIT NUMBER: N-692-1-0 (AP 74-6)

EPA AIRS NUMBER: N/A

NOTICE OF VIOLATION NUMBER: 000133

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TYPE OF BUSINESS:

[REDACTED] is an asphaltic concrete and batch plant which utilizes a drum dryer mixer system. The asphaltic concrete produced is a mixture of well graded, high quality aggregate and liquid asphaltic cement which is heated and mixed in quantities to produce bituminous pavement material. This asphaltic concrete production process is currently under Authority-To-Construct N-692-9-0 for modification to the Aggregate Dryer.

NATURE OF THE PROBLEM:

At this time, [REDACTED] is unable to comply with its start-up source testing requirement. Due to the present recessionary climate and the subsequent lack of demand for asphalt, the plant is unable to produce sufficient tonnage, without incurring considerable financial loss, so as to allow testing for compliance with condition #5 of the A/C (Authority-To-Construct).

Note that [REDACTED] was issued a 90-day variance on May 14, 1992 (Order No. [REDACTED]) due to this same situation. Although this variance expired on August 12, 1992, this facility still did not have sufficient throughput for the performance of its source test. After that variance expired, [REDACTED] did not apply for another because of miscommunication between their environmental office and the Tracy plant. On March 11, 1993, (Notice of Violation) # 000133 was issued to this company for violation of permit condition #5 requiring the source testing.

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PETITIONERS REQUEST:

The petitioner is requesting a regular variance from its conditional requirement for source testing. This variance would be for a period of one year, from June 2, 1993 to June 1, 1994. Compliance would be attained under the following schedule of increments:

Perform required source testing:	04/01/94
Submit source test data to District:	05/01/94
Achieve and demonstrate final compliance:	06/01/94

The petitioner is requesting a 12 month variance for the express purpose of insuring that it will have sufficient time, considering the current economic situation, in which to come into compliance with District requirements. However, full compliance could be achieved prior to the proposed final compliance date. As economic and business conditions allow, the petitioner would expedite its incremental requirements as soon as possible.

EXCESS EMISSIONS

With the ongoing low production levels, exceedence of the permitted source's emission limits is not anticipated.

IMMEDIATE COMPLIANCE:

Immediate compliance with District start-up testing requirements would force the petitioner to manufacture product without having a buyer for this material. This course of action would mean a direct loss of \$12,000 which would impact the petitioners ability to compete in the marketplace.

COMPLIANCE DIVISION DISCUSSION:

STAFF COMMENTS ON REQUIRED FINDINGS

- (a) That the petitioner for a variance is, or will be, in violation of Section 41701 or of any rule, regulation, or order of the District.

Staff Comment(s): The petitioner is unable to meet its start-up source testing requirements and is therefore in violation of District Rule 2070.7.0.

- (b) That, due to conditions beyond the reasonable control of the petitioner, requiring compliance would result in either (1) an arbitrary or unreasonable taking of

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property, or (2) the practical closing and elimination of a lawful business.

Staff Comment(s): Due to poor economic conditions and the general lack of demand for asphaltic concrete, the petitioner is unable to produce the required tonnage necessary to perform its start-up source testing requirements without incurring serious economic consequences. On several occasions the petitioner has attempted to have a source test performed on its asphaltic process. However, due to the cancellation of production orders by customers and complications with source testing companies, such as scheduling conflicts, these efforts were unsuccessful.

- (c) That the closing or taking would be without a corresponding benefit in reducing air contaminants.

Staff Comment(s): Due to the reduction in the applicant's operational schedule and the general lack of production, emissions should be under those limitations as stipulated in the applicant's Authority to Construct. If necessary, calculations can be completed after the source test to assure that operations were in compliance during this variance period.

- (d) That the applicant for the variance has given consideration to curtailing operations of the source in lieu of obtaining a variance.

Staff Comment(s): The reduction in operation represents, in itself, a major curtailment. Further curtailment would imply closing the business.

- (e) During the period the variance is in effect, that the applicant will reduce excess emissions to the maximum extent feasible.

Staff Comment(s): The average percent of capacity produced in the 1st quarter of 1993 was 9.83 %. Emissions at these production levels should be well under those allowed by its Authority to Construct. Since operations are continuing at these levels and there have been no modifications to the facility asphaltic production systems which would affect facility emissions, the applicant does not anticipate excess emissions from its plant.

- (f) During the period the variance is in effect, that the applicant will monitor or otherwise quantify emission levels from the source, if required to do so by the District, and report these emissions to the District pursuant to the schedule established by the District.

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Staff Comment(s): Daily production levels will be kept to indicate production throughput levels as a means of quantifying and monitoring correlating facility process emissions.

COMPLIANCE DIVISION RECOMMENDATIONS:

The District recommends that a regular variance be granted to [REDACTED] from the compliance requirements of District Rule 2070.7.0 (OPERATION ACCORDING TO PERMIT TO OPERATE CONDITIONS) for condition # 5 of Authority to Construct # N-692-9-0, with the following stipulations:

By September 2, 1993, [REDACTED] will have performed one of the following two options:

- A. Completed a source test at their maximum rated production capacity of 150 tons/hr.
- B. If product demand doesn't exist for Option A, then have completed a source test at current (lower) production rates to determine compliance with Authority-To-Construct emission limits of NO_x, SO_x, CO, PM10, and VOC.
If Option B is chosen, then another source test at maximum rated production capacity has to be performed by June 1, 1994 (Schedule of Increments referenced in this document). This is to allow operation at the higher rate of production. Under both options, the facility will keep logs/records of daily rates, (tons/hr and # of hours).